Scott. II-27—45,004—21-10-27.

(1928) Department.

Exam (8E)

Mis SERIES.

G.O. No. 1427

DATED 19-4-28

[Despatch Abstract.]

Criminal Appeal - Appeal against acquittal - S.

Case No.56/27 on the file of the Sessions Judge, South Kanara - declined.

C.F. 30—10,000—7-8-26.

JUDICIAL **DEPARTMENT.**

L.P 2136 B

Received ..... 192 . *Registered* 17.4 192 8

Subject.

Appeal against acquittal - S.C.No. 58 of 1927, on the file of the Sessions Judge, South Kanara - Forwarding Opinion.

11/4

ENCLOSURES.
No. .....
.....
Spare copies .....

Opinion No. 52 of 1928.

Station Madras, *Dated the* 14th April 192 8.

From (Name) K.P.M. Menon Esq., B.A., Barrister-at-Law,
(Designation) Public Prosecutor in-charge.

To The Secretary to the Government of Madras,
Law (General) Department.

Sir, M.U.6.28

I have the honour to forward herewith copy of judgment in S.C.No. 58 of 1927 on the file of the Sessions Judge, South Kanara, together with a copy of the note by the Honourable Mr. Justice Odgers. 1.3.28

2. A bill-hook usually is a formidable instrument, and the thief when he was climbing down the tree and was nearing the ground, waved it about threateningly over the head of the watchman (accused), who was standing on the

ground at the foot of the tree. The accused, I think, was justified in self-defence, in using his knife for the purpose of disarming the thief. The posture of the thief is easy to imagine. He must have been bending down, and waving the bill-hook, over the accused's head.

3. The statement of the accused that he aimed at the hand of the thief and at the bill-hook, and that the blow accidentally struck the leg is quite believable, and has been believed by the Sessions Judge.

4. I do not think that an appeal against this acquittal is likely to be successful.

I have the honour to be,

Sir,

Your most obedient servant,

R. Thomson.

Public Prosecutor in-charge.

3

Note of Honourable Mr. Justice Odgers.

S. Kenere, J.C.58/37.

I am very doubtful if the accused was justified in trying to disarm the accused who was still up the tree, by striking him on the leg - and it is this wound which caused his death. The case is .., and let me know if he proposes to appeal.

(Initld.). C.A.O.

(True copy).

Public Prosecutor in-charge.

8

From

The Sessions Judge

South Kanara

To,

The Registrar

High Court

Madras

R. Lr. No. 2[illegible]-5-27

Dated 28th March

Despatched 28th March } 1928

Received

Criminal Appeal No. 56

Subject

Submitting a printed copy of judgment in Criminal Appeal No. 56 of 1927 on the file of the Sessions Court of South Kanara Division.

Secunderabad 5/1/1927 19 Feb 1928

Dreschitzer & Chellaram

Kankanada Beari

30 MAR 1928

Chaidu Beari — Father's name

Chopla. — Caste

Watchman area garden. — Occupation

Bolpuri — Residence

20 years. — Age

10-9-27 — Accused

Received by transfer on 25-10-27 — Complaint

5-11-27 — Apprehension

8.12.27 — Release on bail

8.2.28 — Commencement of trial

20.2.1928 — Adjournment

Case transferred to the file of the Court under orders of the Addl. District Magistrate, Dublin in 25-10-27 and the case heard & 5-11-1927. Order in 7 case framed in 5-11-1927 and the case adjourned to 16.11.27 for defence and witnesses & adjourned to 26-11-1927 & the accused released on Bail one surety. The witnesses were examined and the case committed to Sessions for trial.

The case coming on for hearing on 8.2.1928 & after examining P.W.s 1 to 6 the case was adjourned to 20.2.28 owing to the absence of the Medical Officer as Bombay is cause.

Sessions Judge

Sessions Case No. 5/1927

Kankanada Beari

Chaidu Beari

Chopla.

Watchman area garden.

Bolpuri

20 years.

10-9-27

Received by transfer on 25-10-27

5-11-27

8.12.27

8.2.28

20.2.1928

Sessions Judge

Bolpuri,

28th March 1928.

C.F. 804—2,113 Bks —17-9-27.

OFFICE OF THE 10

Dated _____ 192 .

_____ Hours _____ Minutes.

TELEPHONIC MESSAGE.

From

The manager Pub Prosecutor
c/o
To The Superintendent Guard.

Re Mr Pub Prose. opinion no. 52
dt. 14.4.28.

The no of the Sessions case
is 56. The no. 55 entered on the
Judges' note card in this c/o Letter
is a mistake. The opinion
relates to Sessions Case 56.

SDC
1914

Law (Genl) Dept

1105 C. No: 2136 B. From the Public Prosecutor, Madras, No. 52/28 dt 14. 4. 28

Appeal against acquittal - S.C No: 56/27 on the file of the Sessions Judge, South Kanara.

U.S

1204 The Public Prosecutor is of opinion that the appeal against the acquittal is not likely to be successful. It is for consideration whether the Advocate General's opinion should be obtained. A draft order declining to appeal is, however, submd for orders. [The three months appeal time expires on 22. 5. 28.]

SECRETARY TO GOVERNMENT OF MADRAS
19 APR 1928
LAW DEPARTMENT

Nom 18.4.28. 18.4.28. There does not seem to be a good case for appeal. 18.4.28

5 18.4.28

4 copies 18.4.28

12/19/4

2136B

Law Dept. (Genl.) I-4—100—10-11-26.

Received _____ 192 . *Registered* _____ 192 .

Criminal Appeal – **Appeal against acquittal—~~Negatived.~~**

S. Case No. 56/27 on the file of the Sessions Judge, South Kanara – declined.

MP 19/4

LAW (GENERAL) DEPARTMENT.

READ—the following papers :—

From the District Magistrate, _____, No. _____, dated _____ 192 .

Endorsement to the Public Prosecutor, Madras, No. _____, dated _____ 192 .

C.No: 2136 B From the Public Prosecutor, Madras, No. 52/28, dated 14. 4. 1928.

ORDER—Mis. No. 1427, **dated** 19/4/1928.

The Government do not consider it advisable to appeal to the High Court against the judgment of the Sessions Judge, South Kanara acquitting the accused in S C No. 56 of 1927 on his file.

18.4.28.
MR
18.4.28

~~(True Extract.)~~

18.4.28

Secretary to Government.

To

8

The District Magistrate, South Kanara (qrs),
The Public Prosecutor, Madras. (with judgment.) 2/20

19/4/28